

EEO FOCUS



NEWS YOU CAN USE

Employee Engagement– the Key to Employee Success

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At the January 27, 2009 Equal Employment Opportunity Commission Director's Conference, Mr. John Crum, Director of the Office of Policy and Evaluation, Merit Systems Protection Board (MSPB), briefed the audience on a recent MSPB study regarding employee engagement. According to the study there are 6 broad areas that engage Federal employees:

1. **Pride in one's work or work-place**
2. **Satisfaction with leadership**
3. **Opportunity to perform well at work**
4. **Satisfaction with recognition received**
5. **Prospect for future personal growth**
6. **Positive work environment/teamwork**



Develop a Strong Working Relationship with Each Employee: frequently talk with each employee individually, learn about their interests and goals, discover individual work styles and needs for direction, feedback, and recognition and identify employee strengths and weaknesses.

Provide Frequent Feedback and Coaching: meet regularly with each employee to review work progress and provide feedback. Work with employees to identify obstacles that are impeding high performance; provide frequent informal feedback, discuss with employees how to apply feedback to improve their performance. Encourage employees to solicit feedback from others and request feedback from employees.

Offer Growth Opportunities: assess employee's development needs at least once each year. Work with employees to create a development plan. Provide development opportunities to all employees and think creatively.

Recognize Employees' Contributions: recognition for one's work is a fundamental human need and strong contributor to engagement. Recognition ranges from simple words of appreciation to monetary awards and public ceremonies use to recognize good work and incremental improvements.

Treat Employees as Business Partners: Give employees the authority and resources they need and hold employees accountable for outcomes. Let them choose how to do their work. Solicit and use employees' input; make it safe to express opinions, encourage innovation and allow employees to make honest mistakes.

He went on to suggest the following engagement strategies:

Establish an on-boarding process for New Hires: integrate new employees into the organization over their first year. Provide them with organizational knowledge resources, tools and interpersonal connections. Research shows effective on-boarding improves performance, increases engagement increases retention and decreases time to full productivity.

Make Work Meaningful: explain organization goals and strategies to employees, clearly link individual goals with organizational goals. Keep employees informed of organizational progress and demonstrate how their work positively impacts the American public.

Communicate Often and Honestly: meet in-person with employees, share information about the organization, share both good and bad news, always speak the truth and be sure words and actions are aligned.

*Develop success
from failures.
Discouragement and
failure are two of
the surest stepping
stones to success.*

Dale Carnegie

Extracted from John Crum, Jan 09 EEOC Brief

Mediation – It Makes Great Business Sense



The objective of this intervention is to assist the parties in reaching a mutually acceptable resolution of the issues in dispute.

Mediation is presently the most popular form of Alternative Dispute Resolution (ADR) in use by federal agencies in employment-related disputes. Mediation is the intervention in a dispute or negotiation of an acceptable impartial and neutral third party, who has no decision-making authority. The objective of this intervention is to assist the parties in reaching a mutually-acceptable resolution of the issues in dispute. A mediator makes primarily procedural suggestions regarding how parties can reach agreement. Occasionally, a mediator may suggest some substantive options as a means of encouraging the parties to expand the range of possible resolutions under consideration. A mediator often works with the parties individually, in caucuses, to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution. Alternative Dispute Resolution (ADR) is a strategy for having all participants exit as "winners" and avoiding "losers" when resolving

workplace disputes. ADR simply encourages people to communicate with each other to reach an agreement that is fair, workable, and that all parties can accept.

ADR provides an opportunity that is not often available to employees or managers -- the opportunity to work together to craft a solution to a problem, rather than having a decision imposed on them by an outside party.

Mediators work with all parties to facilitate positive change and forge an agreement to foster more open communication. The mediator does not make decisions for the parties, but helps them focus on what's important; what's needed to resolve an issue. The mediator is a neutral – with no interest in taking sides on an issue and honoring confidentiality of the process. The mediator's only interest is assisting the parties to determine what is best for them.

Fort Carson uses mediators from the Department of Defense

Investigations Resolution's Division (IRD) for formal EEO complaints. The cost for mediation services is the same as for investigations, currently \$325. If a case does not settle, this one time fee also covers subsequent case investigation by an IRD investigator. The \$325 flat fee is one of the best bargains for ADR services and investigative support – period! Here are 10 reasons we support IRD Mediation for EEO complaints:

1. IRD Mediators-Neutral, Fair, Impartial
2. No Cost to Employees; Low Cost to the Agency
3. Design Your Own Solution
4. Confidential
5. Saves Time & Money; Reduces Stress
6. Discusses the Real Issues
7. Improves Communication and Provides Harmony
8. Everyone Wins
9. Provides A Solution In Writing
10. Thousands of Disputes Resolved.

Material compiled from www.eeoc.gov and <http://www.cpms.osd.mil/ird/adr>

Be a Coach, Mentor, Teacher...

The achievements of an organization are the results of the combined effort of each individual.

Coach, Mentor, and Teacher are three words synonymous with the character of people who are exceptional Managers, Supervisors or Directors. As any good coach would apply strategies to win the game so too must supervisors. Within the coach's book of strategies are recorded successes and past failures, held as a reminder of what worked and what did not. The key is to know and keep what will produce desired results. Within the office environment strategies of success are not annotated within a playbook but they are embedded in every action the Supervisor, Manager or Director takes.

You play a pivotal role in the performance of your employees. You empower them with the appropriate tools to discover and develop their ability to succeed in the job.

Along with the equipping you must also foster an environment conducive for growth. If you keep in mind that every performance problem or conflict may be an opportunity to teach and train you ensure that good employees with occasional problems remain committed to organizational success. Loyal and long term employees are most productive when they know they are a part of a team. Being a part of a team signifies unity and harmony.

When the need for counseling arises it will be least disruptive for the employee because he/ she will understand that correction provides the opportunity for retraining and improvement. Your employees are counting on you to lead the way in transforming them from separate individuals into a cohesive and effective team.

You must set the stage for synergy.

Following a few simple rules will keep good employees performing optimally:

1. Let your employees know that you value them; a little appreciation goes a long way.
2. Let your employees know that you are trustworthy; by demonstration not articulation.
3. Inspire confidence by rewarding competence at all levels.
4. Role model your leadership Coach. Avoid excessive attention to minor details.
5. Offer challenging work that will engage employees and encourage stretching and growth.

By: Lashunda Blevins
Fort Carson EEO Specialist

The Agency Labor Counselor: Part of Management's Advisory Team

In any matter pertaining to human resources, management officials have a team of advisors available to assist them in making sound decisions. One of those advisors is the labor attorney. My role is pretty clear in the case of a formal complaint. I defend the interests of the Army in the investigation and resolution of complaints. But does the attorney have a role at the earliest "informal" stages? Yes. Even in the informal stage of a complaint, federal civilian managers should maintain contact with civilian personnel specialists and with their labor attorney, as necessary, to ensure they understand the playing field and to prepare for cooperative interaction.

In the informal stage of an EEO complaint, the EEO staff conducts a very limited inquiry into the matter. They work to establish the facts and to facilitate constructive engagement and resolution. For many, this middle ground can be especially uncomfortable. You have no idea how much planning or advice an aggrieved person may have assembled prior to the meeting. You may be concerned about attempting to resolve allegations which are not fully developed or which you currently disbelieve. You may wish that you had a

greater opportunity to resolve the matter "in house." You may believe you've just walked into a situation where the other participants seem to have a head start. Now is the time to seek advice from the rest of your advisory team in CPAC/HR and from your labor counselor. We can help assess your situation and help you understand the process you are in. As your labor counselor, I can help you evaluate the nature of the complaint and assess the risk associated with various engagement strategies. I will also provide some general advice, such as: don't start your own investigation; don't engage with the aggrieved to resolve this on your own; don't do anything that could influence potential witnesses; "do" assemble and prepare to share relevant documents; "do" assist the EEO staff in establishing the basic facts . . . etc. I can also help you understand the unique opportunities associated with the informal EEO complaint process and offer practical suggestions and meeting strategies.

Additionally, I can help you prepare for informal complaint mediation, if offered. However, I won't be there with you, since that would destroy the whole "informal" nature of the process. The aggrieved em-

ployee should not be represented, either. I'll generally encourage you to participate, but also suggest you feel free to take a discrete, confidential, non-inflammatory break in the action to consult with your advisors whenever you're unsure about a proposed course of action. (E.g. "Can we take a ten minute break?") There is a time to settle, and a time to walk away from the table. Either way, the process should be constructive, informative, and conciliatory in tone. It costs you nothing to say "I hear you . . . I understand . . . I want to resolve this."

By Bill Hennessey
Fort Carson Labor Counselor



Learning from Mistakes

Department of Army EEO Compliance and Complaints Review recently sent out three examples of findings of discrimination against the Army. They want to emphasize that discrimination can be prevented but it takes clear management action. Each case includes case law references to support what should have been done by the agency to avoid a Title VII violation.

Interference with the EEO Process – Destroying Selection Notes

A *per se* violation of Title VII occurs when a supervisor intentionally, or unintentionally, interferes with protected EEO activity in any manner. We have had two *per se* violations as a result of selecting

officials destroying interview notes after making the selections rendering the notes unavailable when EEO complaints were filed. Under the provisions of 29 C.F.R. § 1602.14, agencies have a duty to preserve records pertaining to appointments, selections and demotions. *Weathersby v. Department of the Interior*, EEOC DOC 0120061627, 2007 WL 2416673 (EEOC) (August 16, 2007); *see also Vraniak v. United States Postal Service*, EEOC DOC 0120060906, 2007 WL 4293373 (EEOC) (November 26, 2007) (Administrative Judge finds violation of 29 C.F.R. § 1602.14 for Agency's failure to preserve interview notes pertaining to selection process at issue)

Reprisal – Intimidating an employee in the exercise of EEO rights

We have had a finding of reprisal discrimination, where after the supervisor learned that one of the employees filed an EEO complaint, he told the complainant that he was going to deal more harshly with the employees and that he was going to decide whether the complainant could attend her EEO appointment. The supervisor's actions created a chilling effect on employee use of the EEO complaint process. The EEOC has a policy of considering reprisal claims with a broad view of coverage. *Carroll v. Department of the Army*, EEOC Request No. 05970939 (April 4, 2000). Under Commission policy, claimed retaliatory actions which can be challenged are not restricted to those which affect a term or condition of employment. Rather, a complainant is protected from any discrimination that is reasonably likely to deter protected activity.

Learning from Mistakes

Rather, a complainant is protected from any discrimination that is reasonably likely to deter protected activity. See EEOC Compliance Manual Section 8, "Retaliation," No. 915.003 (May 20, 1998), at 8-15. Any action by an agency manager that interferes with an employee's rights or has the effect of intimidating the employee in the exercise of those rights under the EEO statutes is a violation. *Binseel v. Department of the Army*, EEOC Request No. 05970584 (October 8, 1998); *Chavez v. Dept. of Agriculture*, EEOC Appeal No. 0120062643 (September 26, 2008)..

Pre-employment Physical Exams - Conditional offer must come first

Finally, we have had a finding of disability discrimination because the activity failed to comply with the requirement to make a conditional offer of employment to an applicant before conducting a pre-employment physical examination. Under the Rehabilitation Act, "an employer may ask disability-related questions and

require medical examinations of an applicant only after the applicant has been given a conditional job offer." Enforcement Guidance on Pre-employment Disability-Related Questions and Medical Examinations, EEOC Notice No. 915.002, at 2 (October 10, 1995); see also 29 C.F.R. § 1630.13(a); *Nolan v. Department of the Army*, EEOC Appeal No. 01975113 (November 1, 2000). After an applicant is given a conditional job offer, but before he starts work, an employer may make disability-related inquiries and conduct medical examinations, regardless of whether they are related to the job, as long as it does so for all entering employees in the same job category. Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA), EEOC Notice No. 915.002, at 3-4 (July 26, 2000). However, if an individual is screened out because of a disability, the employer must show that the exclusionary criterion is job-related and consistent with business necessity. *Id.*

These cases illustrate the liability the agency faces when procedures are not followed according to the letter of the law; when managers fail to understand their full scope of responsibilities in personnel matters; or the chilling effect a manager can have on the work place if they do not support EEO principles. The EEO Office will always advise management to take appropriate action on performance and conduct issues. If you have questions about courses of action available to you, please contact the EEO Office to discuss the specific situation and also contact the civilian personnel office and/or the labor counselor to ensure you have accurate and sound information to make a good decision.

Source:
EEOCCR
Spring 09
Newsletter



Training Corner:

The EEO Office provides training in Equal Employment Opportunity (EEO) and in the Preventing of Sexual Harassment (POSH). Seminars targeting Supervisors and Managers are offered on EEO responsibilities and understanding reasonable accommodation.

Every civilian employee must have training in the Prevention of Sexual Harassment each fiscal year. This training can be done theater style or on-line.

Every manager or supervisor of civilian employees must attend an EEO for Managers or Supervisors class each year and are encouraged to also attend specific EEO seminars such as Understanding Reasonable Accommodation.

Between now and the end of the fiscal year, the following training is avail-

Theater Style Prevention of Sexual Harassment Training & EEO for Managers Supervisors:

12 May and 11 August at McMahon Theater - 0800, 1000, and 1300 Pre-registration is not required.

EEO for Managers & Supervisors:

16 June 0900 (Fire Dept Training Facility, Bldg. 3669)

2 July 0900 and 1030 (Bldg. 1430 Main Conference Room)

14 July 1100 - 1200 (MEDDAC, Room TBD)

21 July 1100 - 1200 (MEDDAC, Room TBD)

21 August 0900 and 1030 (Bldg. 1430, Main Conference Room)

16 September 0900 (Fire Dept Training Facility, Bldg. 3669)

Understanding Reasonable Accommodation:

16 June 1300 - 1400 (Fire Dept Training Facility, Bldg. 3669)

16 September 1300 - 1400 (Fire Dept Training Facility, Bldg. 3669)

To log into the POSH training course and examination, go to

Step 1: Go to website:

<https://lms.carson.army.mil/> (right click on website and click on Open Hyperlink)

Step 2: Follow the directions on the Learning Management Website regarding how to configure your browser for LMS

Step 3: Login using your AKO e-mail address and password (LMS is not CAC enabled)

Step 4: From the Public Course List, **select Prevention of Sexual Harassmentv2**

Step 5: New window - Click on Load Course, new window, follow the set instructions

Step 6: Complete the course

Step 7: Take Exam

Step 8: Print Certificate and provide a copy to your supervisor and training coordinator